1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/23/99 Wanted: Soon				Received By: olsenje Identical to LRB: By/Representing: Walter Drafter: olsenje					
									For: Senate Democratic Caucus
This file may be shown to any legislator: NO May Contact:									
Subject: Public Defender					Extra Copies: MGD				
Pre To	pic:								
SDC:	. Walter - Cau	cus # 1520,							
Topic:			······································						
SPD rep	presentation in	CHIPS cases							
Instruc	tions:						1 1		
See Atta	ached								
 Draftin	g History:								
Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required		
/1	olsenje 06/23/99	wjackson 06/24/99	ismith 06/24/99	**************************************	lrb_docadmin 06/24/99				
/2	malaigm 06/26/99	wjackson 06/27/99	jfrantze 06/28/99		lrb_docadmin 06/28/99				
FE Sent	For:			<end></end>					

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May Contact:

Alt. Drafters:

malaigm

Subject:

Public Defender

Extra Copies:

MGD

Pre Topic:

SDC:.....Walter - Caucus # 1520,

Topic:

SPD representation in CHIPS cases

Instructions:

See Attached

Drafting History:

Vers.

Drafted

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Submitted

Jacketed

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/1

olsenje 06/23/99 wjackson 06/24/99

ismith 06/24/99

lrb_docadmin 06/24/99

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olsenje

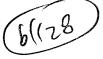
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FE Sent For:

<END>

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v	•	

Agency: Public Defender





caucus number 1520

duplicate flag:	Other reference numbers:		LFB Sum #:
duplicate with:	FM ·	407	
	bill r	number/amendment number	•
	LRB	3 draft #	LRB P-draft:
description: Fm 407. Provide \$1,1 Defender to represent	68,500 GPR in 99-00 and \$1,558,0 t parents in Children in Need of Pro	00 GPR in 00-01 to private teciton or Services (CHIPS)	bar appropriation and authoize Public cases filed on or after effective date of the
other notes Modifications to abo	ove: Representation OK - no fund	ling. Authorizes represen	tation, not mandated.
drafting instructions: see above.			
more instructions:			
Agency: Public Defender			Number of Amendments: 1

PUBLIC DEFENDER

State Public Defender Funding for Representing Parents in CHIPS Cases

Motion:

Move to provide \$1,168,500 GPR in 1999-00 and \$1,558,000 GPR in 2000-01 to the State Public Defender's private bar appropriation and authorize the State Public Defender to represent parents in Children in Need of Protection or Services (CHIPS) cases filed on or after the effective date of the bill.

Note:

In 1993-94, the SPD represented parents in an estimated 5,422 CHIPS cases. In the 1995-97 budget (1995 Act 27), the Legislature eliminated statutory authority regarding a parent's right to counsel in CHIPS proceedings. Subsequently, a Wisconsin Supreme Court ruling indicated that courts have the power to appoint counsel for parents in CHIPS cases. Since the SPD is no longer authorized to represent parents in CHIPS cases, when a court determines that public representation is required, such counsel is paid for by counties. This motion would authorize the SPD to represent parents in CHIPS cases and would provide \$1,168,500 GPR in 1999-00 and \$1,558,000 GPR in 2000-01 in private bar funding. This motion assumes an annual caseload of 5,422 CHIPS cases in which parents receive SPD representation.

[Change to Bill: \$2,726,500 GPR]

Motion #407

De Gun

Section #. 48.23 (3) of the statutes is amended to read:



48.23 (3) Power of the court to appoint counsel. Except in proceedings under s. 48.13, at a any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the child in a proceeding under s. 48.13.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.

Section #. 938.23 (3) of the statutes is amended to read:



938.23 (3) Power of the court to appoint counsel. Except in proceedings under s. 938.13, any time, upon request or on its own motion, the court may appoint counsel for the juvenile or any party, unless the juvenile or the party has or wishes to retain counsel of his or her own choosing.

The court may not appoint counsel for any party other than the juvenile in a proceeding under s. 938.13.

History: 1995 a. 77.



State of Misconsin 1999 - 2000 LEGISLATURE



LRBb1128/1 JEO&GMM: WL)

SDC:.....Walter - Caucus # 1520, SPD representation in CHIPS cases
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION
CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1999 ASSEMBLY BILL 133

1	At the locations indicated, amend the substitute amendment as follows:
2	$\sqrt{1}$. Page 645, line 22: after that line insert:
3	"Section 1131d. 48.23 (3) of the statutes is amended to read:
4	48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under
5	s. 48.13 , at $\underline{\mathrm{At}}$ any time, upon request or on its own motion, the court may appoint
6	counsel for the child or any party, unless the child or the party has or wishes to retain
7	counsel of his or her own choosing. The court may not appoint counsel for any party
8	other than the child in a proceeding under s. 48.13.".
	History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.
9	✓ 2. Page 1431, line 22: after that line insert:
0	"Section 3142m. 938.23 (3) of the statutes is amended to read:

938.23 (3) Power of the court to appoint counsel. Except in proceedings under s. 938.13, at At any time, upon request or on its own motion, the court may appoint counsel for the juvenile or any party, unless the juvenile or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the juvenile in a proceeding under s. 938.13.".

History: 1995 a. 77.

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3. Page 1603, line 24: after that line insert:

"(4d) REPRESENTATION OF PERSONS IN CASES INVOLVING CHILDREN IN NEED OF PROTECTION OR SERVICES. The treatment of section 48.23 (3) of the statutes first applies to proceedings that are commenced under section 48.13 of the statutes on the effective date of this subsection.

REPRESENTATION OF PERSONS IN CASES INVOLVING JUVENILES IN NEED OF PROTECTION OR SERVICES. The treatment of section 938.23 (3) of the statutes first applies to proceedings that are commenced under section 938.13 of the statutes on the effective date of this subsection.".

15

(END)

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRBb1128/1dn JEO&GMM: WL)

Per your request, this amendment does not give SPD additional money to pay for representation it provides to parents in CHIPS or JIPS cases. Also, note that if the SPD declines to represent a parent, the court still has the inherent authority to appoint an attorney at county expense.

Jefren E. Olsen Legislative Attorney Phone: (608) 266–8906

E-mail: Jefren.Olsen@legis.state.wi.us

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRBb1128/1dn JEO&GMM:wlj:ijs

June 24, 1999

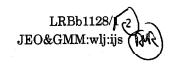
Per your request, this amendment does not give SPD additional money to pay for representation it provides to parents in CHIPS or JIPS cases. Also, note that if the SPD declines to represent a parent, the court still has the inherent authority to appoint an attorney at county expense.

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E-mail: Jefren.Olsen@legis.state.wi.us



State of Misconsin 1999 - 2000 LEGISLATURE



SDC:.....Walter - Caucus # 1520, SPD representation in CHIPS cases

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1999 ASSEMBLY BILL 133



At the locations indicated, amend the substitute amendment as follows:

1. Page 645, line 22: after that line insert:

SECTION 1131. 48.23 (3) of the statutes is amended to read:

48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under s. 48.13, at At any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the child in a proceeding under s. 48.13.

2. Page 1431, line 22: after that line insert:

SECTION 3142m. 938.23 (3) of the statutes is amended to read:

That 2

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(nsurf (8) 1-8 9 (nsurf (10) 1-9 938.23 (3) Power of the court to appoint counsel. Except in proceedings

under s. 938.13, at At any time, upon request or on its own motion, the court may

appoint counsel for the juvenile or any party, unless the juvenile or the party has or 3 wishes to retain counsel of his or her own choosing. The court may not appoint 4 counsel for any party other than the juvenile in a proceeding under s. 938.13. 3. Page 1603, line 24: after that line insert: (1907) 48.20 (8) 48.21 (3) (d) 7

"(44m) REPRESENTATION OF PERSONS IN CASES INVOLVING CHILDREN IN NEED OF PROTECTION OR SERVICES. The treatment of section 48.23 (3) of the statutes first applied to proceedings that are commenced under section 48.13 of the statutes on the Sections 638.20(8), 938.2)(3)(2) effective date of this subsection.

(44m) REPRESENTATION OF PERSONS IN CASES INVOLVING JUVENILES IN NEED OF PROTECTION OR SERVICES. The treatment of section 938.23 (3) of the statutes first applies to proceedings that are commenced under section 938.13 of the statutes on the effective date of this subsection.".

(END)

(2), (3) 3 and (4), 938, 243 (1) (e) CAZ 938.27 (47(6)

(2) (b) I the statute had apply

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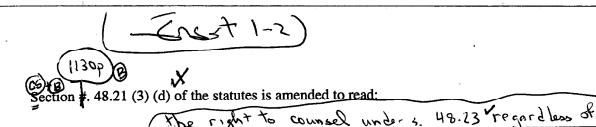
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48.20 (8) of the statutes is amended to read:

The right to counsel under 5. 48.23 re gardless of

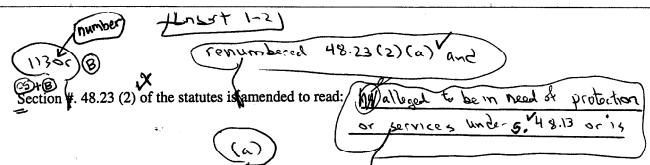
48.20 (8) If a child is held in custody, the intake worker shall notify the child's parent, guardian and legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is 12 years of age or older, the child shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the child and the child's parent, guardian or legal custodian. When the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., the unborn child, through the unborn child's guardian ad litem, shall receive the same notice about the whereabouts of the child expectant mother, about the reasons for holding the child expectant mother in custody and about the detention hearing as the child expectant mother and her parent, guardian or legal custodian. The intake worker shall notify the child expectant mother, her parent, guardian or legal custodian and the unborn child, by the unborn child's guardian ad litem.

History: 1977 c. 354, 449; 1979 c. 300; 1983 a. 189 s. 329 (5); 1993 a. 16, 56, 98, 385; 1995 a. 27, 77; 1997 a. 292.



48.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to confront and cross—examine witnesses and the right to present witnesses.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292.



48.23 (2) Represents to counsel. Whenever a child is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel. A minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.

1999-2000 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

LRBb1225/2 GMM...:...

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(INSERT 1-2)

SECTION 1130. 48.23 (2) (b) of the statutes is created to read:

48.23 (2) (b) If a petition under s. 48.13 is contested, no child may be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the child may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the child outside the home even though the parent was not represented by counsel.

(END OF INSERT)

(1130x) Last 1-8)

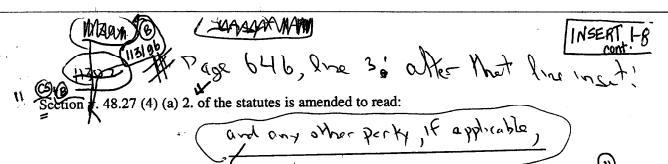
Section #. 48.23 (4) of the statutes is amended to read:

(child)

48.23 (4) PROVIDING COUNSEL. In any situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. If the referral is of a person who has filed a petition under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours after that referral Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to represent the child in any appeal brought under s. 809.105 unless the (hild) requests substitution of counsel or extenuating circumstances make it impossible for counsel to continue to represent the child. In any situation under sub. (2) or (2m) in which a parent 18 years of age or over or an adult expectant mother is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent or adult expectant mother is unable to afford counsel in full, or the parent or adult expectant mother so indicates; the court shall refer the parent or adult expectant mother to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named as the respondent in that petition.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.

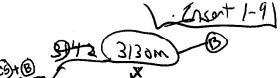
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48.27 (4) (a) 2. Advise the child of his or her right to legal counsel regardless of ability to payo (2) History: 1977 c. 354; 1979 c. 300, 331, 359; 1983 a. 27; Sup. Ct. Order, 141 W (2d) xiv (1987); 1987 a. 403; 1991

a. 263, 315; 1993 a. 98, 395; 1995 a. 27, 77, 275; 1997 a. 237, 292; 13.93 (1) (b).

END INSERT 1-8



938.20 (8) of the statutes is amended to read:

, the eight to counsel under 5. 938.23 regardless of

held in custody, the intake worker shall notify the juvenile's parent, 938.20 (8) If a juvenile is guardian and legal castodian of the reasons for holding the juvenile in custody and of the juvenile's whereabouts unless there is reason to believe that notice would present imminent danger to the juvenile. If a juvenile who has violated the terms of aftercare supervision administered by the department or a county department is held in custody, the intake worker shall also notify the department or county department, whichever has supervision over the juvenile, of the reasons for holding the juvenile in custody, of the juvenile's whereabouts and of the time and place of the detention hearing required under s. 938.21. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 938.21, the nature and possible consequences of that hearing and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the juvenile is alleged to have committed a delinquent act, the juvenile shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the juvenile and the juvenile's parent, guardian or legal custodian.

History: 1995 a. 77; 1997 a. 35.

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#. 938.21 (3) (d) of the statutes is amended to read:

938.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to confront and cross-examine witnesses and the right to present witnesses.

History: 1995 a. 77, 275; 1997 a. 35, 237, 296.



1999-2000 DRAFTING INSERT

FROM THE
LEGISLATIVE REFERENCE BUREAU

3148 3148

(INSERT 1-9)

(938.13)

SECTION 1180t. 4.23 (2) (b) of the statutes is created to read:

juvenile

outside his or her home unless the nonpetitioning parent is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the child outside the home even though the parent was not represented by counsel.

CENTROPINSERDY (eddin)

Appendent of survey a juvernile 13 alleged to be in need of protection or services under 4. 978.13, any parent under 18 years of age who appends before the court shall be represented by counsel; but no such parent may waive counsel. (A)

Section 938.23 (4) of the statutes is amended to read:

938.23 (4) PROVIDING COUNSEL. In any situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in that petition.

[Just mice)

History: 1995 a. 77.

In any situation under sub.(2) in which a

parent 18 years & age or FMM is envirted to

expresentation by counsel; counsel is not knowingly

and voluntarily wrived; and it appears that

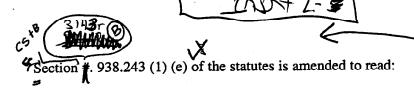
the parent is unable to afford counsel in

cull, or the parent so indicates: the

coust shall refer the parent to the

authority for indigency determinations

specified in S.E 977.07(1).



938.243 (1) (e) The right of the juvenile to counsel under s. 938.23.

History: 1995 a. 77; 1997 a. 35.

Page 1432, line 21: after that line insert:

Section #. 938.27 (4) (b) of the statutes is amended to read: 938.27 (4) (b) Advise the juvenile of his or her right to legal counsel regardless of ability to pay. History: 1995 a. 77, 275; 1997 a. 80, 181, 237. # Page 1434, line 2: after that line insert:

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State of Misconsin 1999 - 2000 LEGISLATURE

LRBb1128/2 JEO&GMM:wlj:jf

SDC:.....Walter – Caucus # 1520, SPD representation in CHIPS cases $F_{\rm OR~1999-01~BUDGET} - N_{\rm OT~READY~FOR~INTRODUCTION}$

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1999 ASSEMBLY BILL 133

At the locations indicated, amend the substitute amendment as follows:

1. Page 645, line 22: after that line insert:

"Section 1130m. 48.20 (8) of the statutes is amended to read:

48.20 (8) If a child is held in custody, the intake worker shall notify the child's parent, guardian and legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, the right to counsel under s. 48.23 regardless of ability to pay and the right to present and cross—examine

witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is 12 years of age or older, the child shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the child and the child's parent, guardian or legal custodian. When the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., the unborn child, through the unborn child's guardian ad litem, shall receive the same notice about the whereabouts of the child expectant mother, about the reasons for holding the child expectant mother in custody and about the detention hearing as the child expectant mother and her parent, guardian or legal custodian. The intake worker shall notify the child expectant mother, her parent, guardian or legal custodian and the unborn child, by the unborn child's guardian ad litem.

SECTION 1130p. 48.21 (3) (d) of the statutes is amended to read:

48.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to counsel under s. 48.23 regardless of ability to pay, the right to confront and cross—examine witnesses and the right to present witnesses.

SECTION 1130r. 48.23 (2) of the statutes is renumbered 48.23 (2) (a) and amended to read:

48.23 (2) (a) Whenever a child is alleged to be in need of protection or services under s. 48.13 or is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who

appears before the court shall be represented by counsel; but no such parent may waive counsel. A minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

SECTION 1130s. 48.23 (2) (b) of the statutes is created to read:

48.23 (2) (b) If a petition under s. 48.13 is contested, no child may be placed outside of his or her home unless the nonpetitioning parent is represented by counsel at the fact—finding hearing and subsequent proceedings. If the petition is not contested, the child may not be placed outside of his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the child outside the home even though the parent was not represented by counsel.

SECTION 1130t. 48.23 (3) of the statutes is amended to read:

48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under s. 48.13, at At any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the child in a proceeding under s. 48.13.

SECTION 1130x. 48.23 (4) of the statutes is amended to read:

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48.23 (4) Providing counsel. In any situation under this section in which a person child has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person child to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. If the referral is of a person child who has filed a petition under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to represent the child in any appeal brought under s. 809.105 unless the child requests substitution of counsel or extenuating circumstances make it impossible for counsel to continue to represent the child. In any situation under sub. (2) or (2m) in which a parent 18 years of age or over or an adult expectant mother is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent or adult expectant mother is unable to afford counsel in full, or the parent or adult expectant mother so indicates; the court shall refer the parent or adult expectant mother to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named as the respondent in that petition.".

2. Page 646, line 3: after that line insert:

"Section 1131gb. 48.27 (4) (a) 2. of the statutes is amended to read:

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48.27 (4) (a) 2. Advise the child <u>and any other party, if applicable</u>, of his or her right to legal counsel regardless of ability to pay.".

3. Page 1431, line 22: after that line insert:

"SECTION 3130m. 938.20 (8) of the statutes is amended to read:

938.20 (8) If a juvenile is held in custody, the intake worker shall notify the juvenile's parent, guardian and legal custodian of the reasons for holding the juvenile in custody and of the juvenile's whereabouts unless there is reason to believe that notice would present imminent danger to the juvenile. If a juvenile who has violated the terms of aftercare supervision administered by the department or a county department is held in custody, the intake worker shall also notify the department or county department, whichever has supervision over the juvenile, of the reasons for holding the juvenile in custody, of the juvenile's whereabouts and of the time and place of the detention hearing required under s. 938.21. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 938.21, the nature and possible consequences of that hearing, the right to counsel under s. 938.23 regardless of ability to pay and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the juvenile is alleged to have committed a delinquent act, the juvenile shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the juvenile and the juvenile's parent, guardian or legal custodian.

SECTION 3131m. 938.21 (3) (d) of the statutes is amended to read:

938.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to counsel under s. 938.23 regardless of ability to pay, the right to confront and cross—examine witnesses and the right to present witnesses.

SECTION 3142g. 938.23 (2) of the statutes is created to read:

938.23 (2) (a) Whenever a juvenile is alleged to be in need of protection or services under s. 938.13, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel.

(b) If a petition under s. 938.13 is contested, no juvenile may be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the fact—finding hearing and subsequent proceedings. If the petition is not contested, the juvenile may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the juvenile outside the home even though the parent was not represented by counsel.

SECTION 3142m. 938.23 (3) of the statutes is amended to read:

938.23 (3) Power of the court to appoint counsel. Except in proceedings under s. 938.13, at At any time, upon request or on its own motion, the court may appoint counsel for the juvenile or any party, unless the juvenile or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the juvenile in a proceeding under s. 938.13.

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SECTION 3142p. 938.23 (4) of the statutes is amended to read:

938.23 (4) Providing counsel. In any situation under this section in which a person juvenile has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person iuvenile to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. In any situation under sub. (2) in which a parent 18 years of age or older is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent is unable to afford counsel in full, or the parent so indicates; the court shall refer the parent to the authority for indigency determinations specified in s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in that petition.".

- 4. Page 1432, line 21: after that line insert:
- 19 "Section 3143r. 938.243 (1) (e) of the statutes is amended to read:
- 20 938.243 (1) (e) The right of the juvenile to counsel under s. 938.23.".
 - **5.** Page 1434, line 2: after that line insert:
- 22 "Section 3148m. 938.27 (4) (b) of the statutes is amended to read:
- 938.27 (4) (b) Advise the juvenile <u>and any other party, if applicable</u>, of his or her right to legal counsel regardless of ability to pay.".

6.	Page	1603.	line	24:	after	that	line	insert
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"(4nm) Representation of Persons in Cases involving Children in Need of Protection or Services. The treatment of sections 48.20 (8), 48.21 (3) (d), 48.23 (3) and (4) and 48.27 (4) (a) 2. of the statutes, the renumbering and amendment of section 48.23 (2) of the statutes and the creation of section 48.23 (2) (b) of the statutes first apply to proceedings that are commenced under section 48.13 of the statutes on the effective date of this subsection.

(4pm) Representation of Persons in Cases involving Juveniles in Need of Protection or Services. The treatment of sections 938.20 (8), 938.21 (3) (d), 938.23 (2), (3) and (4), 938.243 (1) (e) and 938.27 (4) (b) of the statutes first applies to proceedings that are commenced under section 938.13 of the statutes on the effective date of this subsection.".

(END)